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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/708,309      | 11/07/2000  | Patti C. Gilmer      | FPC3 (6208.tba)     | 1250             |

7590 03/26/2002

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EXAMINER

WRIGHT, ANDREW D

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3617     |              |

3617

DATE MAILED: 03/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|-------------------------------|----------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>09/708,309 | Applicant(s)<br>GILMER, PATTI C. |  |
|                              | Examiner<br>Andrew Wright     | Art Unit<br>3617                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 07 January 2002.
- 2a)  This action is **FINAL**.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1,2 and 4-15 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) 14 and 15 is/are allowed.
- 6)  Claim(s) 1,2 and 4-13 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on 07 November 2000 is/are: a)  accepted or b)  objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some \* c)  None of:
    - 1.  Certified copies of the priority documents have been received.
    - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other:

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because figures 12 and 13 should have individual labels for each figure (e.g. FIG 12A, FIG. 12B, etc.). Correction is required. Applicant states in the response filed 1/07/02 that marked up copies of figures 12 and 13 were submitted; however, these papers were not received by the Office and subsequently not entered into the file. It is requested that applicant resubmit these corrections.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-9, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Darcy et al. (US 5,823,838). Darcy discloses, in line 55 of column 6 through line 3 of column 7, in lines 45-65 of column 16, and in figures 20 - 22, a flotation suit that comprises a form-fitting torso covering with pockets that receive and retain buoyant material. Darcy discloses that the buoyant material may be in the form of a unitary element comprising a base sheet of buoyant material with attached raised portions. It can be seen from figure 20 that the raised portions are substantially thicker than the base sheet. It can be seen from figure 21 that the raised portions include an upper torso portion and a lower torso portion. Darcy teaches that the element is placed

in the pocket of the torso garment. It can be seen from figure 6 that the garment has a chest opening with a zipper.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 4-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darcy (US 5,823,838) in view of Grunstein et al. (US 6,260,199). Darcy discloses, in line 55 of column 6 through line 3 of column 7, in lines 45-65 of column 16, and in figures 20 - 22, a flotation suit that comprises a form-fitting torso covering with pockets that receive and retain buoyant material. Darcy discloses that the buoyant material may be in the form of a unitary element comprising a base sheet of buoyant material with attached raised portions. It can be seen from figure 20 that the raised portions are substantially thicker than the base sheet. It can be seen from figure 21 that the raised portions include an upper torso portion and a lower torso portion. Darcy teaches that the element is placed in the pocket of the torso garment. It can be seen from figure 6 that the garment has a chest opening with a zipper. Darcy does not disclose that the form fitting torso covering has a right arm covering, a left arm covering, a right leg covering, and a left leg covering. Grunstein discloses a bodysuit with added flotation, similar to that of Darcy. Grunstein, however, discloses a form fitting torso covering that is more than just a vest. Grunstein discloses a form fitting torso covering that also has a

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right arm covering, a left arm covering, a right leg covering, and a left leg covering.

Reasons for this are to provide tight fit when the user is in the water, so that the suit does not slide around on the user. Another reason for adding the extra covering is for thermal protection of the wearer. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Darcy by adding a right arm covering, a left arm covering, a right leg covering, and a left leg covering as taught by Grunstein.

6. Regarding claim 11, Darcy does not disclose a fastenable back opening.

Grunstein discloses a flotation swimsuit that comprises a torso garment with a pocket that retains a unitary flotation element, the element comprising portions of differing thickness. Grunstein's swimsuit has a zippered back opening. Grunstein teaches that the swimsuit is designed for use with a child, and that the back opening facilitates dressing the child. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Darcy by using a zippered back opening as taught by Grunstein. The motivation would be to accommodate a child.

7. Regarding claim 13, Darcy does not disclose the recited method steps. The method steps recited in claim 13, however, are inherent in the manufacture and use of the modified suit of Darcy. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to devise the claimed method steps based upon manufacture and usage of the modified suit of Darcy. The motivation would be to manufacture and use the suit.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Darcy in view of Khanamirian (US 6,235,661). Darcy does not disclose a fabric sheet of the pocket being laminated to the flotation element. Khanamirian discloses in figures 2 the practice of laminating pocket fabric to the enclosed flotation element. Khanamirian teaches that the lamination produces an ergonomically contoured design which provides the weare superior fit, form, function, protection, and is aesthetically pleasing. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Darcy by using the lamination taught by Khanamirian.

***Allowable Subject Matter***

9. Claims 14 and 15 are allowed.

***Response to Arguments***

10. Applicant's arguments with respect to claims 1, 2, and 4-13 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax numbers for the organization where this application or proceeding is assigned are (703) 308-3519 for both regular and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703) 308-1113.

Andrew D. Wright  
Patent Examiner  
Art Unit 3617



S. JOSEPH MORANO  
SUPERVISOR  
TECHNICAL EXAMINER  
308-0230